

UNAPPROVED MINUTES
COUNCIL MEETING
September 13, 2010

A regular meeting of the Council of the City of Salem, Virginia, was held in Council Chambers, City Hall, 114 North Broad Street, on September 13, 2010, at 7:30 p.m., there being present all the members of said Council, to wit: Byron Randolph Foley, John C. Givens, Jane W. Johnson, William D. Jones, and Lisa D. Garst; with Byron Randolph Foley, Mayor, presiding; together with Kevin S. Boggess, City Manager; James E. Taliaferro, Assistant City Manager and Clerk of Council; Frank P. Turk, Director of Finance; Melinda J. Payne, Director of Planning and Economic Development; William L. Simpson, Jr., Assistant City Engineer; Mike Stevens, Communications Director; and Stephen M. Yost, City Attorney, and the following business was transacted:

The August 23, 2010, work session and regular meeting minutes were approved as written.

The report by the Director of Finance of the City's financial status for a one-month period ending July 31, 2010, was received and ordered filed.

Mayor Foley requested that Council consider an ordinance on second reading rezoning the property of L. Richard Jr. and Debra S. Padgett, property owners, located at 521 Boulevard-Roanoke (Tax Map #146-6-10) from RMF Residential Multi-Family District to RB Residential Business District; the RB rezoning request also includes the following properties: Sprinkle & Sprinkle, 501 Boulevard-Roanoke (Tax Map #146-6-12), Sprinkle & Ayyildiz, 511 Boulevard-Roanoke (Tax Map #146-6-11), Sprinkle & Ayyildiz, 500 block Boulevard-Roanoke (Tax Map #146-6-10.1), and Cynthia D. Jennings, 529 Boulevard-Roanoke (Tax Map #146-6-9); ordinance passed on first reading at the August 23, 2010, meeting;

<u>ITEM 1</u> ORDINANCE ADOPTED REZONING THE PROPERTIES LOCATED AT 521, 501, 511, 500 BLOCK, AND 519 BOULEVARD- ROANOKE TO RB
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ON MOTION MADE BY COUNCILWOMAN JOHNSON, SECONDED BY COUNCILMAN JONES, AND DULY CARRIED, an ordinance entitled, "AN ORDINANCE TO AMEND SECTION 106-110, ARTICLE I, CHAPTER 106, OF THE CODE OF THE CITY OF SALEM, VIRGINIA, RELATING TO ZONING AND DIVIDING THE CITY INTO BUILDING DISTRICTS AND ESTABLISHING DISTRICT BOUNDARY LINES ON THE ZONING MAP OF THE CITY OF SALEM, VIRGINIA," concerning 521 Boulevard-Roanoke, was hereby adopted – the roll call vote: Lisa D. Garst – aye, William D. Jones – aye, Jane W. Johnson – aye, John C. Givens – aye, and Byron Randolph Foley – aye.

ON MOTION MADE BY COUNCILWOMAN JOHNSON, SECONDED BY COUNCILMAN JONES, AND DULY CARRIED, an ordinance entitled, "AN ORDINANCE TO AMEND SECTION 106-110, ARTICLE I, CHAPTER 106, OF THE CODE OF THE CITY OF SALEM, VIRGINIA, RELATING TO ZONING AND DIVIDING THE CITY INTO BUILDING DISTRICTS AND ESTABLISHING DISTRICT BOUNDARY LINES ON THE ZONING MAP OF THE CITY OF SALEM, VIRGINIA," concerning 501 Boulevard-Roanoke, was hereby adopted – the roll call vote: Lisa D. Garst – aye, William D. Jones – aye, Jane W. Johnson – aye, John C. Givens – aye, and Byron Randolph Foley – aye.

ON MOTION MADE BY COUNCILWOMAN JOHNSON, SECONDED BY COUNCILMAN JONES, AND DULY CARRIED, an ordinance entitled, "AN ORDINANCE TO AMEND SECTION 106-110, ARTICLE I, CHAPTER 106, OF THE CODE OF THE CITY OF SALEM, VIRGINIA, RELATING TO ZONING AND DIVIDING THE CITY INTO BUILDING DISTRICTS AND ESTABLISHING DISTRICT BOUNDARY LINES ON THE ZONING MAP OF THE CITY OF SALEM, VIRGINIA," concerning 511 Boulevard-Roanoke, was hereby adopted – the roll call vote: Lisa D. Garst – aye, William D. Jones – aye, Jane W. Johnson – aye, John C. Givens – aye, and Byron Randolph Foley – aye.

ON MOTION MADE BY COUNCILWOMAN JOHNSON, SECONDED BY COUNCILMAN JONES, AND DULY CARRIED, an ordinance entitled, "AN ORDINANCE TO AMEND SECTION 106-110, ARTICLE I, CHAPTER 106, OF THE CODE OF THE CITY OF SALEM, VIRGINIA, RELATING TO ZONING AND DIVIDING THE CITY INTO BUILDING DISTRICTS AND ESTABLISHING DISTRICT BOUNDARY LINES ON THE ZONING MAP OF THE CITY OF SALEM, VIRGINIA," concerning 500 block (vacant lot) Boulevard-Roanoke, was hereby adopted – the roll call vote: Lisa D. Garst – aye, William D. Jones – aye, Jane W. Johnson – aye, John C. Givens – aye, and Byron Randolph Foley – aye.

ON MOTION MADE BY COUNCILWOMAN JOHNSON, SECONDED BY COUNCILMAN JONES, AND DULY CARRIED, an ordinance entitled, "AN ORDINANCE TO AMEND SECTION 106-110, ARTICLE I, CHAPTER 106, OF THE CODE OF THE CITY OF SALEM, VIRGINIA, RELATING TO ZONING AND DIVIDING THE CITY INTO BUILDING DISTRICTS AND ESTABLISHING DISTRICT BOUNDARY LINES ON THE ZONING MAP OF THE CITY OF SALEM, VIRGINIA," concerning 529 Boulevard-Roanoke, was hereby adopted – the roll call vote: Lisa D. Garst – aye, William D. Jones – aye, Jane W. Johnson – aye, John C. Givens – aye, and Byron Randolph Foley – aye.

(HERE SET OUT ORDINANCE)

Mayor Foley requested that Council consider an ordinance on second reading with proffered condition, rezoning the property of Mel Wheeler Inc., property owner, located at 1002 and 1108 Newman Drive (Tax Map #'s 58-1-1 and 58-1-2) from RSF Residential Single Family District to LM Light Manufacturing District; ordinance passed on first reading at the August 23, 2010, meeting;

ON MOTION MADE BY COUNCILWOMAN GARST, SECONDED BY COUNCILMAN JONES, AND DULY CARRIED, an ordinance with proffered condition rezoning the property of Mel Wheeler, Inc., property owner, located at 1002 and 1108 Newman Drive (Tax Map #'s 58-1-1) from RSF Residential Single Family District to LM Light Manufacturing District was hereby adopted:

(HERE SET OUT ORDINANCE)

– the roll call vote: Lisa D. Garst – aye, William D. Jones – aye, Jane W. Johnson – aye, John C. Givens – aye, and Byron Randolph Foley – aye.

ITEM 2
ORDINANCE
ADOPTED WITH
PROFFERED
CONDITION
REZONING THE
PROPERTIES
LOCATED AT 1002
AND 1108
NEWMAN DRIVE
(T/M #'S 58-1-1 &
58-1-2) FROM RSF
TO LM

Mayor Foley requested that Council consider an ordinance on second reading amending Chapter 106, Article II District Regulations, Section 106-208.2, 106-210.2, 106-212.2, 106-214.2, and 106-216.2; Article III Use and Design Standards, Section 106-308 Office uses; and Article VI Definitions and Use Types, Section 106-602.7 of The Code of the City of Salem, Virginia, pertaining to Office Use Types; ordinance passed on first reading at the August 23, 2010, meeting;

ON MOTION MADE BY COUNCILWOMAN JOHNSON, SECONDED BY COUNCILWOMAN GARST, AND DULY CARRIED, the proposed amendments to Section 106-208.2 be deleted in its entirety and the section remain as currently written – the roll call vote: Lisa D. Garst – aye, William D. Jones – aye, Jane W. Johnson – aye, John C. Givens – aye, and Byron Randolph Foley – aye.

WHEREAS, the City Manager stated that the proposed amendments in the ordinance moved medical/dental office clinics and other uses from special exception in three zoning classifications to a use by-right; he stated that the motion just made by Council, keeps medical office clinics as a special exception use in Residential Business District zoning district.

ON MOTION MADE BY VICE MAYOR GIVENS, SECONDED BY COUNCILWOMAN GARST, AND DULY CARRIED, an ordinance entitled, "AN ORDINANCE TO AMEND, REVISE, AND REORDAIN CHAPTER 106, ARTICLE II DISTRICT REGULATIONS, SECTION 106-210.2, 106-212.2, 106-214.2, and 106-216.2; ARTICLE III USE AND DESIGN STANDARDS, SECTION 106-308 OFFICE USES;

ITEM 3
ORDINANCE
ADOPTED AS
AMENDED
AMENDING
CHAPTER 106,
ARTICLE II DISTRICT
REGULATIONS,
SECTION 106-
208.2, 106-210.2,
106-212.2, 106-
214.2, and 106-
216.2; ARTICLE III
USE AND DESIGN
STANDARDS,
SECTION 106-308
OFFICE USES; AND
ARTICLE VI
DEFINITIONS AND
USE TYPES,
SECTION 106-602.7
OF THE CODE OF
THE CITY OF
SALEM, VIRGINIA,
PERTAINING TO
OFFICE USE TYPES

AND ARTICLE VI DEFINITIONS AND USE TYPES, SECTION 106-602.7 OF THE CODE OF THE CITY OF SALEM, VIRGINIA, PERTAINING TO OFFICE USE TYPES” was hereby adopted:

(HERE SET OUT ORDINANCE)

– the roll call vote: Lisa D. Garst – aye, William D. Jones – aye, Jane W. Johnson – aye, John C. Givens – aye, and Byron Randolph Foley – aye.

ITEM 4
ORDINANCE
ADOPTED
AUTHORIZING
ISSUANCE OF
\$4,500,000 OF
PUBLIC
IMPROVEMENT
BONDS

Mayor Foley requested that Council consider an ordinance on second reading authorizing the issuance of \$4,500,000 of Public Improvement Bonds; ordinance passed on first reading at August 23, 2010, meeting;

ON MOTION MADE BY COUNCILMAN JONES, SECONDED BY COUNCILWOMAN GARST, AND DULY CARRIED, an ordinance entitled, “ORDINANCE AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION PUBLIC IMPROVEMENT BONDS OF THE CITY OF SALEM, VIRGINIA, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$4,500,000” was hereby adopted:

(HERE SET OUT ORDINANCE)

– the roll call vote: Lisa D. Garst – aye, William D. Jones – aye, Jane W. Johnson – aye, John C. Givens – aye, and Byron Randolph Foley – aye.

ITEM 5
ORDINANCE
ADOPTED
AMENDING PART
II, CHAPTER 1 OF
THE CODE OF THE
CITY OF SALEM,
VIRGINIA, BY
ENACTING
SECTION 1-14
PERTAINING TO
FEE FOR INMATE
PROCESSING

Mayor Foley requested that Council consider an ordinance on second reading amending Part II, Chapter 1, of The Code of the City of Salem, Virginia, by enacting Section 1-14, pertaining to Fee for Inmate Processing; ordinance passed on first reading at August 23, 2010, meeting;

ON MOTION MADE BY COUNCILWOMAN JOHNSON, SECONDED BY VICE MAYOR GIVENS, AND DULY CARRIED, an ordinance entitled, “AN ORDINANCE TO AMEND, REVISE, AND REORDAIN, PART II, CHAPTER 1, OF THE CODE OF THE CITY OF SALEM, VIRGINIA, BY ENACTING SECTION 1-14, PERTAINING TO FEE FOR INMATE PROCESSING,” was hereby adopted:

(HERE SET OUT ORDINANCE)

– the roll call vote: Lisa D. Garst – aye, William D. Jones – aye, Jane W. Johnson – aye, John C. Givens – aye, and Byron Randolph Foley – aye.

Mayor Foley requested that Council consider an ordinance on second reading amending Part II, Chapter 86, Article IV of The Code of the City of Salem, Virginia, by enacting Section 86-97, pertaining to Reimbursement of Expenses Incurred in Responding to Certain Traffic Incidents; ordinance passed on first reading at August 23, 2010, meeting; and

WHEREAS, Mayor Foley questioned how the fees would be collected; and

WHEREAS, the City Attorney stated that the proposed amendment would allow the city to attempt to recover the costs of emergency services caused during an automobile accident against the person that caused the accident if the person is convicted of a particular traffic offense (i.e. driving under the influence or reckless driving); the fees can attempt to be collected in one of two ways—for the Commonwealth Attorney to ask the court to levy restitution against the defendant in an amount up to \$350, or the city has the right to file a civil action against the defendant, which the City Attorney’s office would file; and

WHEREAS, the City Manager stated that the Commonwealth Attorney has expressed his support to handle the collection of the fees through the first option discussed;

ON MOTION MADE BY COUNCILMAN JONES, SECONDED BY COUNCILWOMAN GARST, AND DULY CARRIED, an ordinance entitled, “AN ORDINANCE TO AMEND, REVISE, AND REORDAIN, PART II, CHAPTER 86, ARTICLE IV, DIVISION 1 OF THE CODE OF THE CITY OF SALEM, VIRGINIA, BY ENACTING SECTION 86-97, PERTAINING TO REIMBURSEMENT OF EXPENSES INCURRED IN RESPONDING TO CERTAIN TRAFFIC INCIDENTS,” was hereby adopted:

(HERE SET OUT ORDINANCE)

– the roll call vote: Lisa D. Garst – aye, William D. Jones – aye, Jane W. Johnson – aye, John C. Givens – aye, and Byron Randolph Foley – aye.

Mayor Foley requested that Council consider an ordinance on first reading amending Part II, Chapter 22, Sections 22-46.1 and 22-52 of The Code of the City of Salem, Virginia, pertaining to License Due Dates and Penalties; and

WHEREAS, the City Manager stated that the Commissioner of Revenue spoke with Council regarding adjusting the due dates so that it would coincide with other existing mailings; he stated that if approved, it would save the city at least one, if not two mailing costs and some additional work from the

ITEM 6
ORDINANCE
ADOPTED
AMENDING PART
II, CHAPTER 86,
ARTICLE IV OF THE
CODE OF THE CITY
OF SALEM,
VIRGINIA, BY
ENACTING
SECTION 86-97,
PERTAINING TO
REIMBURSEMENT
OF EXPENSES
INCURRED IN
RESPONDING TO
CERTAIN TRAFFIC
INCIDENTS

ITEM 7
ORDINANCE
PASSED
AMENDING PART
II, CHAPTER 22,
SECTIONS 22-46.1
AND 22-52 OF THE
CODE OF THE CITY
OF SALEM,
VIRGINIA,
PERTAINING TO
LICENSE DUE
DATES AND
PENALTIES

Commissioner of the Revenue's Office; and

WHEREAS, Councilwoman Garst stated that it would also be beneficial for business owners if the due date was changed; and

WHEREAS, the City Manager stated that it would give business owners additional time to compile their records;

ON MOTION MADE BY VICE MAYOR GIVENS, SECONDED BY COUNCILMAN JONES, AND DULY CARRIED, an ordinance entitled, "AN ORDINANCE TO AMEND, REVISE, AND REORDAIN SECTIONS 22-46.1 AND 22-52, ARTICLE II, CHAPTER 22, OF THE CODE OF THE CITY OF SALEM, VIRGINIA, PERTAINING TO LICENSE DUE DATES AND PENALTIES" was hereby passed on first reading – the roll call vote: Lisa D. Garst – aye, William D. Jones – aye, Jane W. Johnson – aye, John C. Givens – aye, and Byron Randolph Foley – aye.

ITEM 8
BOND AND TIME
LIMIT SET FOR
NEW PARKING LOT
AT ROANOKE
COLLEGE PROJECT

Mayor Foley requested that Council consider setting bond for erosion and sediment control and stormwater management for the new parking lot at Roanoke College; and

WHEREAS, Vice Mayor Givens, Chairman of Council's Audit-Finance Committee, reported that the Committee reviewed the performance bond for erosion and sediment control and stormwater management for the Roanoke College Parking Lot project and recommends setting bond at \$254,925 with a time limit of twelve (12) months for completion; and

WHEREAS, Councilwoman Garst questioned if Roanoke College has signed a formal maintenance agreement, or if this is strictly part of the construction phase; and

WHEREAS, the Assistant City Engineer stated that Roanoke College has signed stormwater management agreements; he stated that once Council approves the bond, Roanoke College will have to sign a bond agreement also; and

WHEREAS, Councilman Jones asked the Assistant City Engineer to explain the three phases involved; and

WHEREAS, the Assistant City Engineer stated that all phases of construction are covered; there are three phases the erosion and sediment control bond controls: the first phase is grading and stripping of top soil, the

second phase is placing storm drains and stormwater management, and the third phase is the final construction; the bond controls dust control, runoff, etc. everything required by state law; and

WHEREAS, Councilwoman Garst questioned if there is a contact listed for the city to get in touch with if there are any issues; and

WHEREAS, the Assistant City Engineer stated that the contractor's name and number are noted on the plans that the contractor's name and number, and who should be contacted if there are complaints; and

WHEREAS, the City Manager asked the Assistant City Engineer to further explain dust control; and

WHEREAS, the Assistant City Engineer stated that it is designated on the plans that if any air-borne particles leave the site and get on cars, houses, etc. there is a way to contact the owner or contractor to remedy the issue;

ON MOTION MADE BY VICE MAYOR GIVENS, SECONDED BY COUNCILMAN JONES, AND DULY CARRIED, bond for erosion and sediment control and stormwater management for the Roanoke College Parking Lot project was hereby set at \$254,925 with a time limit of twelve (12) months for completion – the roll call vote: Lisa D. Garst – aye, William D. Jones – aye, Jane W. Johnson – aye, John C. Givens – aye, and Byron Randolph Foley – aye.

Mayor Foley requested that Council consider the request of the City Manager to hold a closed session pursuant to provisions of Sections 2.2-3711 A (3) of the 1950 Code of Virginia, as amended, to discuss properties the City may wish to buy;

ON MOTION MADE BY VICE MAYOR GIVENS, SECONDED BY COUNCILWOMAN GARST, AND DULY CARRIED, in accordance with Section 2.2-3711 A. of the Code of Virginia, 1950 as amended to date, Council convened to Closed Session at 7:52 p.m. to discuss properties the City may wish to buy, which is authorized by Section 2.2-3711 A. (3) of the Code of Virginia, 1950 as amended to date -- the roll call vote: Lisa D. Garst – aye, William D. Jones – aye, Jane W. Johnson – aye, John C. Givens – aye, and Byron Randolph Foley – aye.

Upon reconvening at 8:05 p.m.;

<p><u>ITEM 9</u> CLOSED SESSION TO DISCUSS PROPERTIES THE CITY MAY WISH TO BUY</p>
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ON MOTION MADE BY VICE MAYOR GIVENS, SECONDED BY COUNCILWOMAN JOHNSON, AND DULY CARRIED, in accordance with Section 2.2-3712 D. of the Code of Virginia, 1950 as amended to date, Council hereby certifies that in Closed Session only items lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such items identified in the motion by which the Closed Session was convened were heard, discussed, or considered by the Council -- the roll call vote: Lisa D. Garst – aye, William D. Jones – aye, Jane W. Johnson – aye, John C. Givens – aye, and Byron Randolph Foley – aye.

There being no further business to come before the Council, the same on motion adjourned at 8:06 p.m.